

806 KAR 2:092. Disclosure of local government taxes.

RELATES TO: KRS 91A.080, 91A.0810, 304.3

STATUTORY AUTHORITY: KRS 91A.0810(2)

NECESSITY, FUNCTION, AND CONFORMITY: EO 2008-507, signed June 6, 2008, and effective June 16, 2008, created the Department of Insurance, headed by the Commissioner of Insurance. KRS 91A.0810(2) requires an insurance company to notify each current policyholder of their rights regarding payment of local government taxes and further requires the Kentucky Office of Insurance to promulgate an administrative regulation setting forth the text of that notice. This administrative regulation prescribes the text to be used by insurance companies when notifying their current policyholders of the payment for local government taxes and the process for appealing a payment. This administrative regulation also sets minimum standards for the future disclosure of local government taxes to policyholders.

Section 1. Definitions. (1) "Collection fee" means the fee established in KRS 91A.080(4).

(2) "Insurance company" means an entity holding a certificate of authority in accordance with KRS 304.3.

(3) "Local government tax" or "tax" means the license fee or tax imposed by a local government in accordance with KRS 91A.080, except the collection fee.

Section 2. Notice to Current Policyholders. (1) Before December 31, 2008, an insurance company shall provide each policyholder who has a policy in effect on July 15, 2008, with a one (1) time notice that states, "Your insurance premium may be subject to a license fee or tax imposed by your local government. The amount of the fee or tax is determined by the local government where the insured risk is located. The tax and any collection fee, if included in the charges to you, will be shown on all future renewal certificates or premium billings for your policy. If you believe that you have been erroneously charged or have been overcharged the tax, you may contact us for information on how to request a refund or credit for the tax paid."

(2) An insurance company may include specific contact information in the notice sent to policyholders pursuant to subsection (1) of this section.

(3) If a policyholder is insured under more than one (1) policy with an insurance company, the insurance company may send one (1) notice to the policyholder to satisfy the requirements of subsection one (1) of this section.

Section 3. Disclosure of Local Government Tax. (1) On and after December 31, 2008, an insurance company shall disclose to the policyholder the amount of local government tax being charged to the policyholder and the taxing jurisdiction to which the tax is due.

(2) Disclosure of a local government tax shall not be required if the insurance company does not charge the tax to the policyholder.

(3) The disclosure shall:

(a) Itemize:

1. The amount of tax and any collection fee charged to the policyholder for each taxing jurisdiction; and

2. The name or abbreviation clearly identifying each corresponding taxing jurisdiction to which the tax is due; and

(b) Be provided to the policyholder:

1. For newly issued policies, on the:

a. Policy;

b. Declaration sheet; or

c. Initial billing; and

2. For renewed policies, on the:

a. Renewal certificate upon renewal of the policy; or

b. Billing for each period for which premium or additional premium is charged to a policyholder by the insurance company.

(4)(a) If local government tax is owed to multiple taxing jurisdictions, the disclosure required in subsection (3) of this section shall list separately each taxing jurisdiction to which tax is owed.

(b) If a credit of a city tax is applied to a county tax pursuant to KRS 91A.080(12), and the result is that no tax is owed to the county, the disclosure may include the county in the itemization of taxing jurisdictions required in subsection (3) of this section.

(5) If a collection fee is included in the amount charged to the policyholder, the disclosure shall state that the amount includes the tax and a collection fee.

(6)(a) An insurance company may provide the disclosure on a notice separate from either the renewal certificate or billing if providing the disclosure on the renewal certificate or billing would cause the disclosure to be illegible due to type size or other space considerations.

(b) If the disclosure is provided on a separate notice, the insurance company shall provide the disclosure to the policyholder at the same time and in the same manner as the insurance company provides the renewal certificate or billing. (35 Ky.R. 682; Am. 1224; eff. 1-5-2009.)